

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *JF* D.C.

05 JUL 15 PM 3:43

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W/D OF TN, MEMPHIS

EMMA BEST,

Plaintiff,

v.

KROGER CO. (THE),

Defendants.

Case No. 04-3044 *Ma V*

JURY DEMANDED

STIPULATED PROTECTIVE ORDER

Subject to the approval of this Court, the parties hereby stipulate to the following
Protective Order:

IT IS HEREBY ORDERED THAT:

1. Medical, psychological and financial information relating to Plaintiff shall be considered "Confidential Information." This Order shall govern all Confidential Information relating to Plaintiff which is obtained by Defendant during the course of this litigation, including, but not limited to, medical, psychological and financial information disclosed pursuant to mandatory disclosures, interrogatory responses, responses to requests for admission, documents produced in response to requests for production or voluntary production of documents, deposition testimony (including copies, excerpts, and summaries) and all other material and information produced in the course of pretrial discovery and other proceedings in this action and all appeals therefrom, and any motion, briefs, or other filings incorporating such information.

2. This Order shall apply both to the parties to this action and to any third party

who provides or is provided access to discovery materials under the terms of this Order.

3. Except with prior written consent of the producing party or upon prior order of this Court, a receiving party shall not use Confidential Information obtained during discovery for any purpose (including without limitation, any business, commercial or personal purpose) other than for the purposes of preparing for and conducting the litigation of this action and any appellate proceedings in this action. Disclosure of Confidential Information shall be limited to the prosecution, defense, and/or appeal of this action.

4. All Confidential Information shall be clearly and prominently marked by placing on every single-page document, on the initial page or cover of a multi-page document (including deposition transcripts), and in prominent location on the exterior of any tangible object, one of the following designations (or a designation containing the same information but in a different format):

- i. "CONFIDENTIAL" or
- ii. "CONFIDENTIAL INFORMATION – THIS DOCUMENT IS SUBJECT TO A PROTECTIVE ORDER".

In lieu of marking the original of documents, the party may mark the copies that are produced or exchanged.

5. When any such Confidential Information is embodied in any discovery material which is ultimately filed with this Court, it shall be designated as "confidential", and the party filing the Confidential Information shall request that it be maintained under seal of the Clerk of the United States District Court for the Western District of Tennessee.

6. Except with the prior written consent of the designating party or as otherwise expressly permitted by this Order, the receiving party may disclose Confidential Information of the designating party only to the following persons:

- A. The Court and Court personnel;
- B. Attorneys for each party;
- C. Experts retained by the receiving party for consultation or for testimony, and designated employees of the receiving party who have been identified to the producing party in advance of the disclosure and whose duties and responsibilities have been described, only after the procedures set forth in Paragraph 7 have been completed;
- D. Any other employee of the receiving party who has a need to know the information for purpose of this action, only after the procedures set forth in Paragraph 7 have been completed;
- E. If objection is made, the person in question shall not be given access to such Confidential Information until resolution of the objection by the parties or the Court.

7. Prior to disclosure of any Confidential Information to any expert witness or employee as described in Paragraphs 6.C and 6.D above, counsel for the receiving party shall first provide such person with a copy of this Order, and shall require such person to execute the appropriate acknowledgment attached to this Order as Exhibit A.

8. This Order shall bind all parties to this action and all persons signing Exhibit A until all discovery materials containing Confidential Information have been returned to the producing party or destroyed. Within one hundred twenty (120) days after the final termination of this action, including all appeals, counsel for the parties that received discovery materials containing Confidential Information shall certify in writing to each party that produced such items that all copies and abstracts thereof have been returned or destroyed.

9. All discovery materials containing another party's Confidential Information shall not be used in any other lawsuit unless otherwise ordered by the Court.

10. Nothing contained in this Order shall be construed as preventing counsel from advising their respective clients as to counsel's opinions and conclusions so long as information designated as Confidential Information is not disclosed to persons not properly authorized to receive such information under this Order.

11. This Order may be modified in whole or in part at any time upon motion by any party.

Maiane K. Usorov
~~S. THOMAS ANDERSON~~
UNITED STATES MAGISTRATE JUDGE

July 15, 2005
DATE

SO STIPULATED:

Attorney for Plaintiff

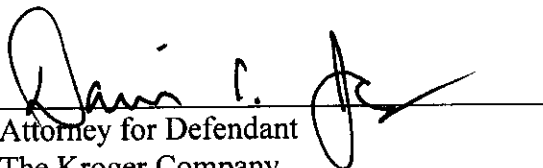

Attorney for Defendant
The Kroger Company

EXHIBIT A

**ACKNOWLEDGMENT OF RECEIPT
OF PROTECTIVE ORDER**

I, the undersigned, do hereby verify that I am in receipt of the Stipulated Protective Order and that I agree to comply fully with all of the provisions set forth in the Stipulated Protective Order.

Signature

Printed Name

Title

Date



Notice of Distribution

This notice confirms a copy of the document docketed as number 9 in case 2:04-CV-03044 was distributed by fax, mail, or direct printing on July 18, 2005 to the parties listed.

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Honorable Samuel Mays
US DISTRICT COURT